

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

UNITED STATES OF AMERICA,)	
)	
Petitioner,)	
)	
v.)	CIVIL ACTION NO. SA-12-CV-575-OG
)	
ONE 2011 FORD F-150 SUPERCREW)	
LARIAT LIMITED TRUCK,)	
VIN: 1FTFW1E63BFA72855,)	
)	
Respondent.)	

**UNITED STATES OF AMERICA'S
MOTION TO DISMISS CIVIL FORFEITURE ACTION**

Petitioner United States of America, by and through the United States Attorney for the Western District of Texas and the undersigned Assistant United States Attorney, respectfully moves this Court, pursuant to Fed. R. Civ. P. 41(a), to dismiss the instant civil forfeiture action, on the ground that the forfeiture of the Respondent Vehicle will be fully resolved in the related Criminal No. SA-12-CR-102-OG.

I.

On June 11, 2012, the United States of America filed a Verified Complaint for Forfeiture (Doc. 1) as to One 2011 Ford F-150, VIN: 1FTFW1E63BFA72855 (hereinafter Respondent Vehicle) in this instant cause. On July 24, 2012, Antonio Pena-Arguelles filed a Verified Claim (Doc. 7) as to the Respondent Vehicle. On February 26, 2013, Pena-Arguelles filed an Answer (Doc. 16). No other claims or answers have been filed in the instant case.

II.

On February 15, 2012, Antonio Pena-Arguelles was indicted in the Western District of Texas, San Antonio Division under Criminal No. SA-12-CR-102-OG, for violations of Title 18

U.S.C. §§ 1956 and 1957. The facts giving rise to the criminal case are the same set of facts and circumstances which give rise to the instant civil forfeiture action.

III.

On March 31, 2014, Defendant Antonio Pena-Arguelles entered a written Plea Agreement (Doc. 55) to Count One of a Superseding Information (Doc. 53) returned against him, in Criminal No. SA-12-CR-102-OG, charging him with violations of Title 18 U.S.C. § 1956(h). As part of his Plea Agreement, Defendant Antonio Pena-Arguelles agreed to forfeit the Respondent Vehicle, along with other properties. On April 9, 2014, this Court entered a Preliminary Order of Forfeiture (Doc. 63), which forfeited all right, title and interest of Defendant Antonio Pena-Arguelles in the Respondent Vehicle. The United States is in the process of noticing any and all other third parties who may have an interest in the Respondent Vehicle, and any petitions that may be filed will be litigated in Criminal No. SA-12-CR-102-OG.

IV.

Federal Rule of Civil Procedure 41(a)(2) provides, in part, that after an opposing party has filed an answer, “an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.”

As explained above, this Court has entered a Preliminary Order of Forfeiture (Doc. 63) as to the Respondent Vehicle in the related Criminal No. SA-12-CR-102-OG. Thus, the Verified Claim (Doc. 7) and Answer (Doc. 16) filed by Antonio Pena-Arguelles in the instant civil forfeiture action are moot.

WHEREFORE, PREMISES CONSIDERED, Petitioner United States of America respectfully moves this Court to dismiss the instant civil forfeiture action.

Respectfully submitted,

ROBERT PITMAN
United States Attorney

By: /s/_____
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CERTIFICATE OF SERVICE

I hereby certify that on April 28, 2014, the foregoing instrument was electronically filed with the Clerk of the Court using the CM/ECF System which will transmit notification of such filing to the following CM/ECF participant:

Gerald Harris Goldstein
Cynthia Hujar Orr
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San Antonio, Texas 78205
Attorneys for Antonio Pena-Arguelles

/s/_____
Mary Nelda G. Valadez
Assistant United States Attorney

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ORDER TO DISMISS CIVIL FORFEITURE ACTION

Came on to be considered the United States of America's Motion to Dismiss Civil Forfeiture Action, pursuant to Fed. R. Civ. P. 41(a), and this Court being fully and wholly apprised in all its premises, finds that said Motion is meritorious, and hereby is in all things GRANTED. IT IS THEREFORE

ORDERED that the above-captioned civil forfeiture action is hereby DISMISSED; and IT IS FURTHER

ORDERED that all other pending motions, if any, are DENIED AS MOOT.

SIGNED this _____ day of _____, 2014.

ORLANDO L. GARCIA
United States District Judge